

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK
VINCENT S. LONG,**

Plaintiff,

**9:17-cv-916
(GLS/TWD)**

v.

ANTHONY J. ANNUCCI et al.,

Defendants.

APPEARANCES:

OF COUNSEL:

FOR PLAINTIFF:

Vincent S. Long
Plaintiff *Pro Se*
9199 Greyton H. Taylor Memorial Drive
Hammondsport, NY 14840

FOR DEFENDANTS:

HON. BARBARA UNDERWOOD
New York Attorney General
The Capitol
Albany, New York 12224

MATTHEW P. REED
Assistant Attorney General

**Gary L. Sharpe
Senior District Judge**

ORDER

The above-captioned matter comes to this court following an Order and Report-Recommendation by Magistrate Judge Thérèse Wiley Dancks, duly filed on July 26, 2018. (Dkt. No. 19.) Following fourteen days from the service thereof, the Clerk has sent the file, including any and all

objections filed by the parties herein.¹

No objections having been filed, and the court having reviewed the Order and Report-Recommendation for clear error, it is hereby

ORDERED that the Order and Report-Recommendation (Dkt. No. 19) is **ADOPTED** in its entirety; and it is further

ORDERED that Defendants' motion to dismiss (Dkt. No. 16) is **GRANTED IN PART** and **DENIED IN PART** as follows:

GRANTED as to the following claims, which are **DISMISSED WITHOUT PREJUDICE**: (1) plaintiff's Eighth Amendment conditions of confinement claim related to the ASAT dorm against defendant M. Montroy; (2) plaintiff's Eighth Amendment conditions of confinement claim related to the infirmary against Montroy, and defendants N. Doldo, L. Moore, and L. Schaber; (3) plaintiff's Fourteenth Amendment due process claim relating to this placement in the infirmary against Doldo, Montroy, Moore, and Schaber; and (4) plaintiff's Eighth Amendment medical indifference claim against Schaber; and

DENIED as to: (1) plaintiff's Eighth Amendment conditions of

¹ Plaintiff filed no objections; however, he submitted an "Amended Complaint," (Dkt. No. 27), which will be addressed by Judge Dancks in due course.

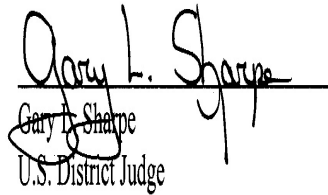
confinement claim related to the ASAT dorm against Doldo; and (2) plaintiff's Eighth Amendment medical indifference claim against defendant D. Dinello; and it is further

ORDERED that plaintiff's amended complaint, (Dkt. No. 27), supersedes and replaces his original complaint in its entirety, which will be addressed in due course by Judge Dancks; and it is further

ORDERED that the Clerk provide a copy of this Order to the parties in accordance with the Local Rules.

IT IS SO ORDERED.

September 18, 2018
Albany, New York


Gary L. Sharpe
U.S. District Judge